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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,620	07/17/2003	Graham M. Clarke	57901US005	1875
32692	7590	02/23/2011		
3M INNOVATIVE PROPERTIES COMPANY			EXAMINER	
PO BOX 33427			WITCZAK, CATHERINE	
ST. PAUL, MN 55133-3427				
			ART UNIT	PAPER NUMBER
			3767	
			NOTIFICATION DATE	DELIVERY MODE
			02/23/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

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Office Action Summary

Application No.

10/621,620

Applicant(s)

CLARKE ET AL.

Examiner

CATHERINE N. WITCZAK

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-8 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Trimmer (WO 96/10630).

Trimmer discloses in Figures 1A and 2A and on page 4 (lines 3-15) and a device having substrate with at plurality of microneedles projecting therefrom, the microneedles having a truncated tapered shape, wherein the microneedle has a flat tip comprising a surface area of 50 square micrometers of less, a base comprising an area of 900 square micrometers or more, and a height to maximum base dimension ratio of 3:1 or more (see pages 7-8, lines 20-11); the microneedles formed of one or more polymers (page 11, lines 15-26); and the microneedles being used to contact skin.

Response to Arguments

Applicant's arguments, see response, filed 2/8/11, with respect to the 112th rejection of the claims have been fully considered and are persuasive. The 112th rejection of claims 3 and 4 has been withdrawn.

Applicant's arguments filed 2/8/11 with regard to the prior art rejection of the claims have been fully considered but they are not persuasive. Applicant argues that Trimmer does not disclose the claimed invention because in the description of the truncated pyramids of the invention of Trimmer, Trimmer 'does not specify that such structure have "flat tips" (as recited in

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claims 1)'. Examiner, however, points out that the very definition of 'truncated' is: 'having the apex replaced by a plane section and especially by one parallel to the base.' Thus, even though Trimmer does not expressly use the phrasing 'flat tip,' the teaching of a 'truncated pyramid' inherently implies that the device has a 'plane section' (i.e. flat tip). In response to Applicant's arguments that Trimmer does not disclose the dimensions of the microprobes as meeting the dimensions as recited in the claims, Examiner points out that Trimmer discloses on pages 4, lines 3-15 the truncated, pyramidal microprobes having a height from about 10 microns to about 300 microns, a tip width of from about 0.05 to about 10, microns, and a base width of from about 30 to about 80 microns.

In regards to Applicant's arguments regarding claim 17, Examiner points Applicant to page 9, 15-37.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine N Witeczak/
Examiner, Art Unit 3767
/KEVIN C. SIRMONS/
Supervisory Patent Examiner, Art Unit 3767